

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to five-year rules review and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 252B, 252C and 252F.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 252B, 252C and 252F.

Purpose and Summary

Chapter 99 was reviewed as part of the Department’s five-year rules review. Chapter 99 outlines the rules governing the provision of services provided by the child support recovery unit regarding the establishment of paternity, the establishment of support obligations, the review and adjustment of support obligations, the modification of support obligations, and the suspension and reinstatement of support obligations.

These proposed amendments align the rules with the current procedures for paternity establishment in the Iowa Code. References to the Iowa Code and federal regulations are proposed to be updated to provide accurate listings. Outdated guidance on establishment of support obligations and guidelines for setting support awards are proposed to be rescinded.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 20, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—99.22(252F) as follows:

441—99.22(252F) Mother’s certified statement. Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed ~~Child Support Information~~, Form 470-3877; or ~~Establishment Questionnaire~~, Form 470-3929; or a similar document from the child’s caretaker. The unit shall obtain the ~~Mother’s Written Statement Alleging Paternity~~, Form 470-3293; from the child’s mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child’s biological father. Government records, including but not limited to an application for public assistance, ~~which~~ that substantially meet the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293, the mother acknowledges that the unit may initiate a paternity action against the alleged father, ~~and she agrees to accept service of all notices and other documents related to that action by first-class mail.~~ The mother shall sign and return Form 470-3293 to the unit within ten days of the date of the unit’s request.

ITEM 2. Amend rule 441—99.23(252F) as follows:

441—99.23(252F) Notice of alleged paternity and support debt. Following receipt of the ~~Mother’s Written Statement Alleging Paternity~~, Form 470-3293; or government records, including but not limited to an application for public assistance, ~~which~~ that substantially meet the requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

ITEM 3. Amend rule 441—99.24(252F) as follows:

441—99.24(252F) Conference to discuss paternity and support issues. ~~The alleged father~~ A party may request a conference as provided in Iowa Code section ~~252F.3, subsection (1),~~ 252F.3(1) with the office that issued the notice to discuss paternity establishment and the amount of support he may be required to pay.

ITEM 4. Amend rule 441—99.29(252F) as follows:

441—99.29(252F) Agreement to entry of paternity and support order. If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father may acknowledge his consent on ~~the Child Support Declaration~~, Form 470-4084. If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, the unit may file the ~~Child Support Declaration form~~, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

ITEM 5. Amend rule 441—99.30(252F) as follows:

441—99.30(252F) Entry of order establishing paternity only. If ~~the alleged father~~ a party requests a court hearing on support issues and paternity is not contested, or if paternity was contested but neither party filed a timely challenge of the paternity test results, the unit shall prepare an order establishing paternity and reserving the support issues for determination by the court. The unit shall present the order and other documents supporting the entry of the ex parte paternity-only order to the court for review and approval prior to the hearing on the support issues.

ITEM 6. Amend rule **441—99.36(598,600B)**, definition of “Disestablishment,” as follows:

“*Disestablishment*” means paternity which is legally overcome under the conditions specified in Iowa Code section 600B.41A or ~~section 598.21, subsection 4A~~ 598.21E.

ITEM 7. Amend subparagraph **99.39(1)“a”(2)** as follows:

(2) For actions under Iowa Code section ~~598.21~~ 598.21E, the written statement was filed and a guardian ad litem was appointed for the child.

ITEM 8. Amend subrule 99.41(1) as follows:

99.41(1) When order may be established. The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude the child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, the unit may obtain a signed ~~Child Support Information~~, Form 470-3877, or ~~Establishment Questionnaire~~, Form 470-3929, or a similar document from the child’s caretaker.

ITEM 9. Amend subrule 99.41(2) as follows:

99.41(2) Support debt. When public assistance is paid to or Medicaid is received by a child of the responsible person, or the dependent child’s caretaker, a support debt is created and ~~owed~~ assigned to the department. When no public assistance is paid or Medicaid is received, the debt is owed to the individual caretaker.

ITEM 10. Amend subrule 99.62(2) as follows:

99.62(2) Review by request. A review shall be conducted upon the request of the child support recovery agency of another state or upon the written request of either parent subject to the order submitted on Form 470-2749, ~~Request to Modify a Child Support Order~~. One review may be conducted every two years when the review is being conducted at the request of either parent. The request for review may be no earlier than two years from the filing date of the support order or most recent modification or the last completed review, whichever is later.

ITEM 11. Amend subrule 99.63(1) as follows:

99.63(1) Notice of right to request review. The child support recovery unit shall notify each parent of the right to request review of the order and the appropriate place and manner in which the request should be made. Notification shall be provided on Form 470-0188, ~~Application For Nonassistance Support Services~~, or Form 470-1981, ~~Notice of Continued Support Services~~, or through another printed or electronic format.

ITEM 12. Amend rule 441—99.83(252H), introductory paragraph, as follows:

441—99.83(252H) Modification of child support obligations. Permanent child support obligations meeting the criteria set forth in rule 441—99.82(252H) may be modified at the initiative of the unit, or upon written request of either parent subject to the order submitted on Form 470-2749, ~~Request to Modify a Child Support Order~~. Any action shall be limited to adjustment, modification, or alteration of the child support or medical provisions of the support order. The duration of the underlying order shall not be modified. The procedures used by the child support recovery unit to determine if a modification is appropriate are as follows:

ITEM 13. Amend subrule 99.85(3) as follows:

99.85(3) Guidelines calculations. The unit shall determine:

~~a. The unit shall determine:~~

(1) a. The appropriate amount of the child support obligation (excluding cost-of-living alteration amounts) as described in rules 441—99.1(234,252B) through 441—99.5(234,252B), and

(2) b. Medical support provisions as described in Iowa Code chapter 252E and rules 441—98.1(252E) through 441—98.7(252E).

~~b. If the modification action is due to noncompliance by a minor obligor, as defined in Iowa Code section 598.21B(2)“c” or 598.21G, the unit will impute an income to the obligor equal to a 40-hour workweek at the state minimum wage unless the parent’s education, experience, or actual earnings justify a higher income.~~

ITEM 14. Amend paragraph **99.104(1)“a”** as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-3033, ~~Request to Suspend Support~~, and Form 470-3032, ~~Affidavit Regarding Suspension of Support~~.

ITEM 15. Amend paragraph **99.110(1)“a”** as follows:

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-5348, ~~Request from the Payor to Suspend Support~~.

ITEM 16. Amend subrule 99.110(2) as follows:

99.110(2) Submitting an affidavit. After receiving a valid request for suspension, the local unit shall provide the requestor with Form 470-5349, ~~Affidavit Requesting Suspension of Support Based on Payor’s Request~~.

a. to c. No change.

ITEM 17. Amend paragraph **99.111(2)“a”** as follows:

a. The unit shall serve Form 470-5351, ~~Notice of Intent to Payee to Suspend a Child Support Obligation Based on Payor’s Request~~, and Form 470-5352, ~~Payee’s Affidavit Objecting to Suspension of Support~~, and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee shall include all of the following:

(1) to (4) No change.